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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,263	01/25/2005	Juergen Loeffler	10191/3821	7492
26646 7590 01/17/2007 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			EXAMINER YOUNG, EDWIN	
			ART UNIT	PAPER NUMBER
			3681	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/17/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/501,263

Applicant(s)

LOEFFLER ET AL.

Examiner

Edwin A. Young

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11,12 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11,12 and 15-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to the amendment filed 12/11/2006. Claims 11 and 19 have been amended along with the specification. Claims 13 and 14 have been cancelled. Claims 11, 12 and 15-20 are currently pending in this application.

Drawings

The drawings were received on 12/11/2006. These drawings are acceptable.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11, 12 and 15-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11, line 10 "a request signal delivered by a brake pedal" appears to be a double inclusion of "a request signal of a brake pedal" appearing in claim 11, line 9. It is suggested that claim 11, line 10 "a request signal delivered by a brake pedal" be changed to - -the request signal of the brake pedal- -.

Claim 12, line 2 "a setpoint wheel braking torque" appears to be a double inclusion of "a setpoint wheel braking torque" appearing in claim 11, line 8. It is suggested that claim 12, line 2 "a setpoint wheel braking torque" be changed to - -the setpoint wheel braking torque- -.

Claim 19, line 2 "a transmission" appears to be a double inclusion of the transmission recited in claim 11, lines 8-9 "an instantaneous transmission output torque

signal.” It is suggested that claim 19, line 2 “a transmission” be changed to - -the transmission- -.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 12 and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over TABATA et al. (EP 1160119 A1) in view of BOHM et al. (US 6,457,784).

Regarding claim 11, TABATA et al. discloses a method for controlling a hybrid drive of a vehicle (see Fig. 1), the hybrid drive including as propulsion motors an internal combustion engine (10) and at least one electric motor/generator (20), and output shafts (12 and 13) of the propulsion motors being operatively linkable to a power train (30) of the vehicle, the method comprising activating the propulsion motors and a braking system of the vehicle in a coordinated manner, as a function of a negative torque demand, and taking the negative torque demand into account, wherein to specify a setpoint wheel braking torque, an instantaneous transmission output torque signal is gated with a request signal of a brake pedal, and wherein the request signal of the brake pedal is interpreted within a range that is defined by operation-related state data of the braking system and instantaneous torque or power potentials of the hybrid drive (see page 10, column 18, lines 6-8 and page 15, column 28, lines 26-40). However,

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TABATA et al. does not teach the braking system of the vehicle being electrically activated.

BOHM et al. discloses a method for controlling the braking torque of an electric vehicle (see Abstract) wherein an electrically activated braking system is used (see column 4, lines 38-49 and column 5, lines 20-35).

Regarding claim 11, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the braking system of TABATA et al. with an electrically activated one, in light of the teachings of BOHM et al., in order to provide individual control of the brakes as taught by BOHM (see column 3, lines 47-56).

Regarding claim 12, TABATA et al. discloses specifying the setpoint wheel braking torque for the braking system taking an operating state of the hybrid drive into account (see page 15, column 28, lines 35-40).

Regarding claim 15, TABATA et al. discloses operating data of the internal combustion engine and of the electric motor/generator being taken into account for torque and power potentials of the hybrid drive (see page 15, column 28, lines 30-32).

Regarding claim 16, TABATA et al. discloses an operating state of an on-board electrical system being taken into account for a torque and power potential of the electric motor/generator (see page 15, column 28, lines 4-7).

Regarding claim 17, TABATA et al. discloses at least one of a battery state of charge, and a battery voltage being taken into account (see page 15, column 28, lines 4-7).

Regarding claim 18, TABATA et al. discloses possible operating modes of the hybrid drive being taken into account for torque and power potentials (see page 12, column 22, lines 23-36 and page 13, columns 23-24, lines 55-58 and 1-5).

Regarding claim 19, TABATA et al. discloses a selected gear of the transmission being taken into account for torque and power potentials (see page 17, column 32, lines 42-50).

Regarding claim 20, TABATA et al. discloses a shifting state of clutches of the hybrid drive being taken into account for torque and power potentials (see page 26, column 49, lines 39-57).

Response to Arguments

Applicant's arguments filed 12/11/2006 have been fully considered but they are not persuasive.

Applicant argues that TABATA et al. and BOHM et al. "do not disclose or suggest the feature in which to specify the setpoint wheel braking torque, an instantaneous transmission output torque signal is gated with a request signal of the brake pedal, and in which the request signal is interpreted within a range that is defined by operation-related state data of the braking system and instantaneous torque or power potentials of the hybrid drive." As mentioned above in the rejection of claim 11, TABATA et al. does disclose the limitations in question, specifically, on page 15, column 28 lines 26-40. TABATA et al. state, "When the driver steps on the brake pedal, the braking force applied to the vehicle is the sum of the power source braking and the wheel braking." Since applicant does not provide a specific definition for the terms "setpoint" and

"signal" set forth in claim 11, the broadest reasonable interpretation of the terms will be applied. Therefore, TABATA et al.'s disclosure of summing the power source braking and the wheel braking to determine the total braking force applied to the vehicle is interpreted as meeting claim 11. Furthermore, TABATA et al.'s disclosure meets the limitation of claim 11, "wherein a request signal delivered by a brake pedal is interpreted within a range that is defined by operation-related state data of the braking system and instantaneous torque or power potentials of the hybrid drive" (see page 10, column 18 lines 6-8 and page 15, column 28 lines 26-40).

Applicant argues that BOHM et al. "does not disclose or suggest the feature of taking into account a transmission output torque signal for specifying the setpoint wheel braking torque and interpreting the request signal within a range that is defined by operation-related state data of the braking system and instantaneous torque or power potentials of the hybrid drive." However, BOHM et al. is not relied upon to reject these limitations. BOHM et al. is merely used to teach a method for controlling the braking torque of an electric vehicle (see Abstract) wherein an electrically activated braking system is used (see column 4, lines 38-49 and column 5, lines 20-35).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin A. Young whose telephone number is 571-272-4781. The examiner can normally be reached on M-TH 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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EAY

Charles A. Marmor 1/24/07
CHARLES A. MARMOR
SUPERVISORY PATENT EXAMINER
ART UNIT 3681



Approved
for ending.
Ely 11/8/2007

API-SEE. No. 10/501,263
Reply to Office Action dated Sept. 14, 2006
Replacement Sheet

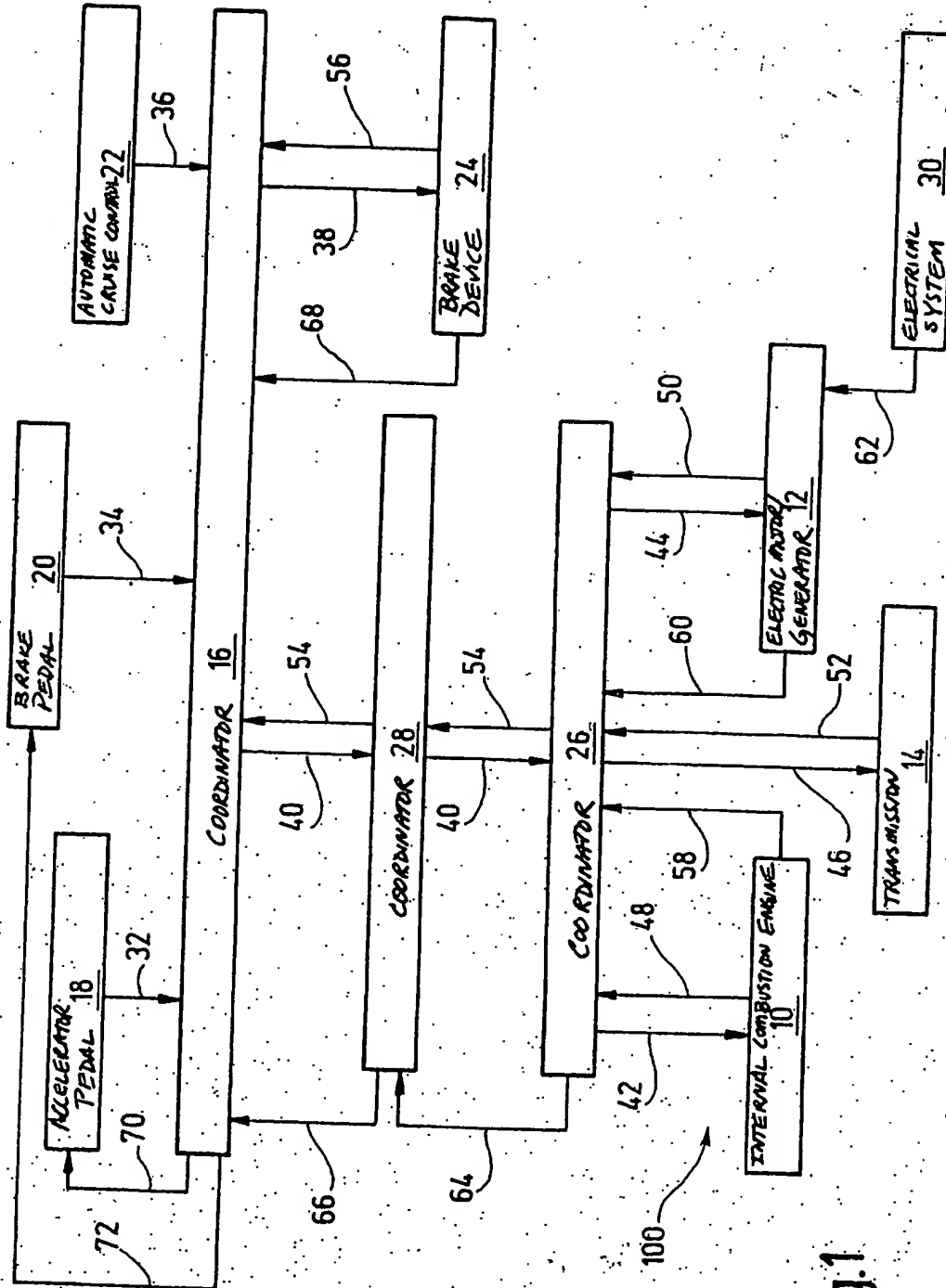


Fig.1